

RULEMAKING PROCESS: VERMONT STATE BOARD OF EDUCATION

The Administrative Procedure Act (Chapter 25 of Title 3 of Vermont Statutes Annotated, also known as the "APA") governs the adoption of rules by executive branch agencies, including the Vermont State Board of Education. The State Board, by virtue of 16 V.S.A. §164(7) (and other statutes on particular subjects, for example, licensing--16 V.S.A. §164(5) or special education--16 V.S.A. §2959(a)), has the authority to make legally binding rules in order to assist in the interpretation, implementation, and enforcement of the education statutes.

In chronological order, the APA contemplates the following steps for the rulemaking process. Additional steps not specifically required by the APA but usually taken by the State Board because of other statutory requirements or good practice are also included and indicated by an asterisk:

- Initiation of the proposed rule by the State Board at a warned meeting*
- Pre-filing with and review of the proposed rule by the Interagency Committee on Administrative Rules (ICAR)
- Filing the proposed rule with the Secretary of State
- Publishing the proposed rule (advertising in the papers)
- Public hearings (if any--although the law does not require the holding of one or more public hearings, the State Board invariably holds at least one) and period to receive written comment
- Review of written and oral public comments by Commissioner and recommendation, if any, for revision of the proposed rule*
- Review of Commissioner's recommendation* and public comment by State Board at a warned meeting and vote, the following month, to proceed with final proposed rule
- Filing of final proposed rule, including local cost impact information, with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR)
- Review of final proposed rule by LCAR at a public meeting
- Filing of adopted rule with the Secretary of State
- Rule becomes effective after 15 days from filing unless a later time is specified in the rule itself
- Addition of the new or amended rule to Department's on-line rules and distribution to holders of hard copies of State Board Manual of Rules and Practices*

The State Board has eight months from the date of the initial filing with the Secretary of State to adopt a rule unless additional time is granted by LCAR.

Further information about the rule making process is available from the Secretary of State:

<http://vermont-archives.org/apa.rules.html>